

Jeffery J. Oven
Mark L. Stermitz
Jeffrey M. Roth
CROWLEY FLECK PLLP
490 North 31st Street, Ste. 500
Billings, MT 59103-2529
Telephone: 406-252-3441
Email: joven@crowleyfleck.com
mstermitz@crowleyfleck.com
jroth@crowleyfleck.com

Peter R. Steenland
Peter C. Whitfield
SIDLEY AUSTIN LLP
1501 K Street, NW
Washington, DC 20005
Telephone: 202-736-8000
Email: psteenland@sidley.com
pwhitfield@sidley.com

Counsel for TransCanada Keystone Pipeline, LP and TC Energy Corporation

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

INDIGENOUS ENVIRONMENTAL
NETWORK and NORTH COAST RIVERS
ALLIANCE,

Plaintiffs,

vs.

PRESIDENT DONALD J. TRUMP,
UNITED STATES DEPARTMENT OF
STATE; MICHAEL R. POMPEO, in his
official capacity as U.S. Secretary of State;
UNITED STATES ARMY CORPS OF
ENGINEERS; LT. GENERAL TODD T.
SEMONITE, Commanding General and
Chief of Engineers; UNITED STATES FISH
AND WILDLIFE SERVICE, a federal
agency; GREG SHEEHAN, in his official
capacity as Acting Director of the U.S. Fish
and Wildlife Service; UNITED STATES
BUREAU OF LAND MANAGEMENT, and

CV 19-28-GF-BMM

**STATUS REPORT BY TC
ENERGY**

DAVID BERNHARDT, in his official
capacity as Acting U.S. Secretary of the
Interior,

Defendants,

TRANSCANADA KEYSTONE PIPELINE,
LP, a Delaware limited partnership, and TC
ENERGY CORPORATION, a Canadian
Public company,

Defendant-Intervenors.

On June 6, 2019, the United States Court of Appeals for the Ninth Circuit dissolved the outstanding injunction prohibiting construction of the Keystone XL Pipeline. *See IEN v. U.S. Dep't of State*, No. 18-36068, 2019 WL 2542756 (9th Cir., June 6, 2019). Thereafter TC Energy (formerly TransCanada) returned to planning for the pre-construction activities so that construction of the Keystone XL pipeline could begin in 2020. These pre-construction activities were identified in the Declaration of Norrie Ramsay, filed in this case in support of TC Energy's Opposition to Plaintiffs' Motion for a Preliminary Injunction (Doc. 42-1, July 24, 2019).

At this point, having obtained all requisite state, local and municipal permits, TC Energy is advising the Court and the parties of its plans to take the following steps with regard to specific, pre-construction activities on private lands.

Weed Eradication: TC Energy plans to eradicate two types of weeds along the right-of-way in Montana and South Dakota by dispatching individuals using commercial herbicides to hand-spray those weeds. This activity is scheduled to begin on or about October 1, 2019.

Pipe Transport: TC Energy plans to resume grounds keeping activities at previously prepared pipe storage yards in South Dakota near the right-of-way, and to transport pipe to be used in construction of the project by train to rail sidings and by truck to certain pipe storage yards. This activity is scheduled to begin on or about October 1, 2019. When construction of the XL Pipeline is completed, the pipe storage yards will be fully remediated and returned to their original (if not better) condition.

Worker Camp Preparation: TC Energy plans to conduct maintenance at four camp sites in Montana and South Dakota, to initiate civil work; install underground utilities and power; transport the worker camp modules from remote storage locations to the camp sites for storage until installation in 2020. This work is expected to begin on or about October 1, 2019. When construction of the project is completed, the site will be fully remediated and returned to its original (if not better) condition.

Mowing Right-of-Way: TC Energy plans to mow along portions of the right-of-way in Montana and South Dakota to limit migratory bird nesting during

construction. This work is expected to begin on or about October 6, 2019. Like all mowing, residential or commercial, grass is expected to grow again once construction is completed.

Pump Station Mowing: TC Energy plans to mow at seven locations in Montana and South Dakota where pump stations are intended to be sited, also to minimize and avoid impacts to migratory birds. This work is also expected to begin on or about October 6, 2019. Pump station construction will not commence until 2020.

Tree-Felling: TC Energy plans to cut selected trees along portions of the right-of-way in South Dakota in order to avoid affecting the Northern Long-Eared Bat during construction. This work is expected to begin on or about October 6, 2019. The trees to be removed by TC Energy have been approved for felling by the landowners from whom TC Energy has obtained the right-of-way.

County Road Maintenance: TC Energy is continuing to work with several counties in South Dakota by participating in ongoing maintenance of unpaved county roads near the right-of-way. This task involves grading of the dirt roads where needed and spreading of gravel to reduce dust and facilitate all traffic during inclement weather.

DATED this 20th day of September 2019,

CROWLEY FLECK PLLP

/s/ Jeffery J. Oven

Jeffery J. Oven

Mark L. Stermitz

Jeffrey M. Roth

490 North 31st Street, Ste. 500

Billings, MT 59103-2529

Telephone: 406-252-3441

Email: joven@crowleyfleck.com

mstermitz@crowleyfleck.com

jroth@crowleyfleck.com

SIDLEY AUSTIN LLP

/s/ Peter R. Steenland, Jr.

Peter R. Steenland, Jr.

Peter R. Whitfield

1501 K Street, N.W.

Washington, DC 20005

Telephone: 202-736-8000

Email: psteenland@sidley.com

pwhitfield@sidley.com

Counsel for TransCanada Keystone Pipeline, LP and TC Energy Corporation

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served today via the Court's CM/ECF system on all counsel of record.

/s/ Jeffery J. Oven